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Court S. Rich - AZ Bar No. 021290
Eric A. Hill - AZ Bar No. 029890
Rose Law Group pc
7144 E. Stetson Drive, Suite 300
Scottsdale, Arizona 85251
Bus: (480) 505-3937
crich@roselawgroup.com
ehill@roselawgroup.com
Attorneys for Sierra Club

Arizona Corporation Commission

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DEC 20 2021

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BEFORE THE ARIZONA POWER PLANT
AND TRANSMISSION LINE SITING COMMITTEE

IN THE MATTER OF THE
APPLICATION OF SALT RIVER
PROJECT AGRICULTURAL
IMPROVEMENT AND POWER
DISTRICT, IN CONFORMANCE WITH
THE REQUIREMENTS OF ARIZONA
REVISED STATUTES, SECTIONS 40-
360, ET SEQ., FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY
AUTHORIZING THE EXPANSION OF
THE COOLIDGE GENERATING
STATION, ALL WITHIN THE CITY OF
COOLIDGE, PINAL COUNTY,
ARIZONA.

DOCKET NO. L-00000B-21-0393-00197

MOTION FOR CONTINUANCE

AZ CORP COMMISSION
DOCKET CONTROL

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Pursuant to A.A.C. R14-3-209, Sierra Club moves for a continuance of the hearing in the above captioned matter. In support of its motion, Sierra Club states the following:

I. The hearing schedule is unreasonable and does not allow sufficient time for Sierra Club to develop its case.

The applicant in a certificate of environmental compatibility ("CEC") proceeding is in complete control of the timing of its application. In addition, the applicant benefits from statutory provisions requiring a speedy consideration of a CEC application. In light of these realities, it is up to the Committee to protect the public from an applicant that would seek to use its filing date and the accelerated hearing process to disadvantage the public and any intervenor that seeks to participate in the CEC hearing process.

1 In this case, SRP deliberately filed its application immediately before the Christmas and
2 New Year's holidays and in the middle of an again-worsening global pandemic. In response, the
3 Committee issued a Notice setting the hearing to commence on January 18, 2022—just 36 days
4 after the application was filed. Furthermore, the Procedural Order mandates that all witness
5 testimony summaries and exhibits to be used at the hearing must be submitted by January 10,
6 2022—giving intervenors a mere 28 days to prepare their entire case for hearing.

7 To the extent an applicant wanted to pick a challenging time for an intervenor to mount a
8 case, it would be difficult to find a more problematic 28-day period than the time between mid-
9 December and mid-January. In most cases, a filing made right before the holidays would be cause
10 to move the hearing out further to accommodate and account for the difficulty the holidays can
11 cause with scheduling and time commitments. In this case, however, it appears that not only did
12 the SRP choose to file the matter right before the holidays, but the hearing was scheduled nearly
13 as quickly as possible under law. In fact, the earliest possible date the hearing could have been
14 scheduled was January 15, 2022 – meaning that this hearing is scheduled to be held within just
15 three days of the earliest legal time it could be held.¹ When you take into account the accelerated
16 timeline, the difficulty of coordinating a case and performing discovery over the holidays, and the
17 fact that we are in the middle of an again-worsening global pandemic, Sierra Club respectfully
18 submits that the hearing scheduled in this matter is unreasonable and violates Sierra Club's due
19 process rights by depriving it of a fair opportunity to participate in and present its case.

20 Even setting aside the reality of the difficulties in working with witnesses and opposing
21 parties on discovery and testimony over the holidays in the middle of a global pandemic, 28 days
22 is simply insufficient time to develop a case for such a significant issue. To be sure, this application
23 does not ask the Committee to review a short gen-tie transmission line which has been a common
24 use of Committee time over the last several years. Instead, this application seeks authorization for
25 a political subdivision of the state of Arizona to make a nearly \$1 billion dollar investment in a
26 technology about which there is significant local, national, and international controversy—and for
27

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¹ A.R.S. § 40-360.04.

1 which there are better alternatives.² Sierra Club respectfully submits that 28 days is objectively
2 insufficient time to build and present an ample case and deprives Sierra Club of important due
3 process rights to which it is entitled.

4 **II. Sierra Club was not given any opportunity to provide input on the schedule.**

5 SRP filed the application in this matter on December 13, 2021. Three days later, on
6 December 16th, the Chairman issued his Notice of Hearing setting the hearing for January 18, 2022.
7 Sierra Club has learned that a pre-filing conference regarding this matter occurred on December
8 7th – a week prior to the application’s filing. It is customary for applicants in siting cases to invite
9 potential intervenors to the pre-filing conference to work collaboratively on a hearing schedule. In
10 fact, undersigned counsel has participated in these collaborative conferences on multiple
11 occasions. In this case, despite Sierra Club members submitting over 500 public comments on
12 SRP’s proposal, and despite Sierra Club presenting to SRP’s Board at its meeting on the Coolidge
13 station expansion, SRP failed to invite Sierra Club to the pre-filing conference and made no effort
14 to communicate with Sierra Club about an acceptable hearing schedule.

15 In fact, not only did Sierra Club members provide comments and its representatives speak
16 at the SRP Board hearing, but Sierra Club also had earlier-begun issuing public records requests
17 to SRP in anticipation of participation in this proceeding.³ It should have been open and obvious
18 to SRP that Sierra Club was likely to intervene in the CEC hearing, but SRP provided no
19 information to Sierra Club regarding any pre-filing conference and never inquired with Sierra Club
20 regarding an acceptable schedule. As such, Sierra Club was unaware of the pre-filing conference
21 where its concerns regarding the hearing schedule could have been addressed. Furthermore, Sierra
22 Club is unaware if any potential or likely intervenors were invited to the pre-filing conference,
23 however, it seems highly unlikely that any party interested in having a fair opportunity to put
24 together a full case in opposition to the CEC request would have been agreeable to such an
25 accelerated timeframe.

26
27 ² A comparison to the recently approved Storey Solar gen-tie project (L-21162A-21-0302-00194) is instructive.
28 Storey Solar was a largely uncontroversial case involving just a few miles of transmission line yet the time between
the application and the first day of hearing was 45 days.

³ Public records requests that SRP refuses to fully respond to.

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1 **Original plus 25 copies filed on**
2 **this 20th day of December, 2021 with:**

3 Docket Control
4 Arizona Corporation Commission
5 1200 W. Washington Street
6 Phoenix, Arizona 85007

7 *I hereby certify that I have this day served a copy of the foregoing document on all parties of*
8 *record in this proceeding by regular or electronic mail to:*

9 Paul A. Katz, Chairman
10 Arizona Power Plant and
11 Transmission Line Siting Committee
12 paul.katz@azag.gov

13 Robin Mitchell
14 Utilities Division
15 Arizona Corporation Commission
16 legaldiv@azcc.gov
17 utildivservicebyemail@azcc.gov

18 William McClellan
19 Karilee Ramaley
20 Salt River Project Agricultural Improvement
21 and Power District
22 bill.mcclellan@srpnet.com
23 karilee.ramaley@srpnet.com

24 Albert H. Acken
25 Jennings, Strouss & Salmon, P.L.C.
26 aacken@jsslaw.com

27
28 By: /s/ Hopi L. Slaughter